

challenged. Each challenge of a producer vote must be made on a separate sheet of paper and each challenge must be signed by the challenger. The identity of the challenger will be kept confidential except as the Secretary may direct or as otherwise required by law.

(c) *Who can be challenged.* Any person whose name is on the Absentee Voter Request List who was not subject to challenge during the September 19, 2000, through October 2, 2000, challenge period may be challenged. Those producers whose names were listed on the Absentee Voter Request List and who were subject to challenge because the Absentee Voter Request List indicated they had returned their ballot are not subject to challenge during this additional 5-day period.

(d) *Notification of challenges.* The FSA County Committee or its representative, acting on behalf of the Administrator, AMS, will notify challenged producers as soon as practicable, but no later than the 2nd business day (October 31, 2000) after the last day of the additional challenge period. FSA county offices will notify all challenged persons that documentation such as sales documents, tax records, or other similar documents proving that the person owned and sold hogs or pigs during the representative period must be submitted or his or her vote will not be counted. The documentation must be provided to FSA county offices not later than November 7, 2000.

(e) *Determination of challenges.* The FSA County Committee or its representative, acting on behalf of the Administrator, AMS, will make a determination concerning the challenge based on documentation provided by the producer and will notify challenged producers as soon as practicable but no later than November 9, 2000.

(f) *Challenged ballot.* A challenge to a ballot shall be deemed to have been resolved if the determination of the FSA County Committee or its representative, acting on behalf of the Administrator, AMS, is not appealed within the time allowed for appeal or there has been a determination by the Administrator, AMS, after an appeal.

(g) *Appeal.* A person declared to be ineligible to register and vote by the FSA County Committee or its rep-

resentative, acting on behalf of the Administrator, AMS, can file an appeal at the FSA county office not later than November 17, 2000. The FSA county office shall send a producer's appeal by facsimile to the Administrator, AMS, on the date it is filed at the FSA office or as soon as practical thereafter.

(h) *Determination of appeals.* An appeal will be determined by the Administrator, AMS, as soon as practical, but in all cases not later than the 45th business day (November 28, 2000) after the date of the last day of the voting period. The Administrator, AMS, shall send her decision on a producer's appeal to the FSA county office where the producer was initially challenged. The FSA county office shall notify the challenged producer of the Administrator's, AMS, determination on his or her appeal. The Administrator's, AMS, determination on an appeal shall be final.

[65 FR 62579, Oct. 19, 2000]

PART 1245—U.S. HONEY PRODUCER RESEARCH, PROMOTION, AND CONSUMER INFORMATION ORDER

Subpart A [Reserved]

Subpart B—Referendum Procedures

Sec.

1245.100	General.
1245.101	Definitions.
1245.102	Voting.
1245.103	Instructions.
1245.104	Subagents.
1245.105	Ballots.
1245.106	Referendum report.
1245.107	Confidential information.
1245.108	OMB control number.

AUTHORITY: 7 U.S.C. 7411–7425; 7 U.S.C. 7401.

SOURCE: 75 FR 18398, Apr. 12, 2010, unless otherwise noted.

Subpart A [Reserved]

Subpart B—Referendum Procedures

§ 1245.100 General.

Referenda to determine whether eligible U.S. producers favor the issuance, continuance, amendment, suspension,

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or termination of the U.S. Honey Producer Research, Promotion, and Consumer Information Order shall be conducted in accordance with this subpart.

§ 1245.101 Definitions.

(a) *Administrator* means the Administrator of the Agricultural Marketing Service, with power to re-delegate, or any officer or employee of the U.S. Department of Agriculture to whom authority has been delegated or may hereafter be delegated to act in the Administrator's stead.

(b) *Department* means the U.S. Department of Agriculture or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

(c) [Reserved]

(d) *Eligible producer* means any person who produces 100,000 pounds or more of honey in any State for sale in commerce and is subject to pay assessments to the Board on such U.S. honey produced during the representative period and who:

(1) Owns or shares in the ownership of honey bee colonies or beekeeping equipment resulting in the ownership of the U.S. honey produced;

(2) Rents honey bee colonies or beekeeping equipment resulting in the ownership of all or a portion of the U.S. honey produced;

(3) Owns honey bee colonies or beekeeping equipment but does not manage them and, as compensation, obtains the ownership of a portion of the U.S. honey produced; or

(4) Is a party in a lessor-lessee relationship or a divided ownership arrangement involving totally independent entities cooperating only to produce honey that share the risk of loss and receive a share of the U.S. honey produced. No other acquisition of legal title to honey shall be deemed to result in persons becoming eligible producers.

(f) *Honey* means the nectar and saccharine exudations of plants that are gathered, modified, and stored in the comb by honeybees, including comb honey.

(g) *Honey products* mean products where honey is a principal ingredient.

For purposes of this subpart, a product shall be considered to have honey as a principal ingredient, if the product contains at least 50 percent honey by weight.

(h) *Order* means the U.S. Honey Producer Research, Promotion, and Consumer Information Order.

(i) *Person* means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity. For the purpose of this definition, the term "partnership" includes, but is not limited to:

(1) A spouse or marital partner who have title to, or leasehold interest in, honey bee colonies or beekeeping equipment as tenants in common, joint tenants, tenants by the entirety, or, under community property laws, as community property; and

(2) So-called "joint ventures" wherein one or more parties to an agreement, informal or otherwise, contributed land and others contributed capital, labor, management, equipment, or other services, or any variation of such contributions by two or more parties, so that it results in the production, or handling for market and the authority to transfer title to the honey so produced, or handled.

(j) *Referendum agent* or *agent* means the individual or individuals designated by the Department to conduct the referendum.

(k) *Representative period* means the period designated by the Department.

(l) *United States* or *U.S.* means collectively the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

§ 1245.102 Voting.

(a) Each person who is an eligible U.S. producer and each person who is an eligible producer-packer, as defined in this subpart, at the time of the referendum and during the representative period, shall be entitled to cast one ballot in the referendum: However, each producer in a landlord-tenant relationship or a divided ownership arrangement involving totally independent entities cooperating only to produce U.S. honey or honey products, in which more than one of the parties is a producer, shall be entitled to cast

one ballot in the referendum covering only that producer's share of the ownership of U.S. honey or honey products.

(b) Proxy voting is not authorized, but an officer or employee of an eligible corporate producer may cast one ballot in the referendum on behalf of such entity. Any individual so voting in a referendum shall certify that they are an officer or employee of the eligible entity, or an administrator, executor, or trustee of an eligible entity and that such individual has the authority to take such action. Upon request of the referendum agent, the individual shall submit adequate evidence of such authority.

(c) All ballots are to be cast by mail, as instructed by the Department.

§ 1245.103 Instructions.

(a) *Referenda*. The Order shall not become effective unless the Department determines that the Order is consistent with and will effectuate the purposes of the Act; and for initial and subsequent referenda the Order is favored by a majority of the eligible persons voting in the referendum who also represent a majority of the volume of U.S. honey produced, during a representative period determined by the Department, have been engaged in the production of honey and are subject to assessments under this Order and excluding those exempt from assessment under the Order.

(b) The referendum agent shall conduct the referendum, in the manner provided in this subpart, under the supervision of the Administrator. The Administrator may prescribe additional instructions, not inconsistent with the provisions of this subpart, to govern the procedure to be followed by the referendum agent. Such agent shall:

(1) Determine the period during which ballots may be cast.

(2) Provide ballots and related material to be used in the referendum. The ballot shall provide for recording essential information, including that needed for ascertaining whether the person voting, or on whose behalf the vote is cast, is an eligible voter.

(3) Give reasonable public notice of the referendum:

(i) By utilizing available media or public information sources, without incurring advertising expense, to publicize the dates, places, method of voting, eligibility requirements, and other pertinent information. Such sources of publicity may include, but are not limited to, print and radio; and

(ii) By such other means as the agent may deem advisable.

(4) Mail to eligible U.S. producers whose names and addresses are known to the referendum agent, the instructions on voting, a ballot, and a summary of the terms and conditions of the Order. No person who claims to be eligible to vote shall be refused a ballot.

(5) At the end of the voting period, collect, open, number, and review the ballots and tabulate the results in the presence of an agent of a third party authorized to monitor the referendum process.

(6) Prepare a report on the referendum.

(7) Announce the results to the public.

§ 1245.104 Subagents.

The referendum agent may appoint any individual or individuals necessary or desirable to assist the agent in performing such agent's functions of this subpart. Each individual so appointed may be authorized by the agent to perform any or all of the functions which, in the absence or such appointment, shall be performed by the agent.

§ 1245.105 Ballots.

The referendum agent and subagents shall accept all ballots cast. However, if an agent or subagent deems that a ballot should be challenged for any reason, the agent or subagent shall endorse above their signature, on the ballot, a statement to the effect that such ballot was challenged, by whom challenged, the reasons therefore, the results of any investigations made with respect thereto, and the disposition thereof. Ballots invalid under this subpart shall not be counted.

§ 1245.106 Referendum report.

Except as otherwise directed, the referendum agent shall prepare and submit to the Administrator a report on

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the results of the referendum, the manner in which it was conducted, the extent and kind of public notice given, and other information pertinent to the analysis of the referendum and its results.

§ 1245.107 Confidential information.

The ballots and other information or reports that reveal, or tend to reveal, the vote of any person covered under the Order and the voter list shall be strictly confidential and shall not be disclosed.

§ 1245.108 OMB control number.

The control number assigned to the information collection requirement in this subpart by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35 is OMB control number 0581-0253.

PART 1250—EGG RESEARCH AND PROMOTION

Subpart—Referendum Procedures

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1250.202	Voting.
1250.203	Instructions.
1250.204	Subagents.
1250.205	Ballots.
1250.206	Referendum report.
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Subpart—Egg Research and Promotion Order

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1250.360	[Reserved]
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Subpart—Rules and Regulations

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OMB CONTROL NUMBERS ASSIGNED PURSUANT TO THE PAPERWORK REDUCTION ACT

1250.501	OMB control numbers assigned pursuant to the Paperwork Reduction Act.
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GENERAL

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ASSESSMENTS, COLLECTIONS, AND REMITTANCES

1250.514	Levy of assessments.
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